

## UNITED STATES DISTRICT COURT

for the  
District of New MexicoFILED  
UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

OCT 05 2021

In the Matter of the Search of  
(Briefly describe the property to be searched  
or identify the person by name and address)

The person of DANIEL WASHBURN (YOB: 1994)

Case No. 21-MR-1428

## APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See "Attachment A", which is attached to and incorporated in this Application and Affidavit.

located in the \_\_\_\_\_ State and \_\_\_\_\_ District of \_\_\_\_\_ New Mexico \_\_\_\_\_, there is now concealed (identify the person or describe the property to be seized):

See "Attachment B", which is attached to and incorporated in this Application and Affidavit.

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;  
☐ contraband, fruits of crime, or other items illegally possessed;  
☐ property designed for use, intended for use, or used in committing a crime;  
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section  
18 U.S.C. §§ 2243

Sexual abuse of a child

Offense Description

The application is based on these facts:

☒ Continued on the attached sheet.

☐ Delayed notice of \_\_\_\_\_ days (give exact ending date if more than 30 days: \_\_\_\_\_) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Applicant's signature

William H. Berry Jr, Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: October 5, 2021

City and state: \_\_\_\_\_

Judge's signature

B. Paul Briones, U.S. Magistrate Judge

Printed name and title

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

IN THE MATTER OF THE SEARCH OF  
THE PERSON OF DANIEL WASHBURN  
(YOB: 1994)

Case No. 21-MR-1428

AFFIDAVIT IN SUPPORT OF SEARCH  
WARRANT

**AFFIDAVIT IN SUPPORT OF A SEARCH WARRANT**

**INTRODUCTION AND AGENT BACKGROUND**

1. I, William H. Berry Jr., being first duly sworn, make this affidavit in support of an application under Rule 41 of the Federal Rules of Criminal Procedure for a warrant to search the person of Daniel Washburn (YOB: 1994), to collect Deoxyribonucleic Acid (DNA) samples by way of buccal swabs. Your affiant believes that probable cause exists that evidence of the crime of Sexual Abuse of a Minor in Indian Country, a violation of 18 U.S.C. §§ 1153(a), 2243(a) and 2246(2)(A), may be found by collecting DNA evidence from the person of Daniel Washburn in the form of saliva with a buccal swab. Once this item is collected from the person of Washburn, it will be sent to the FBI Laboratory for the purpose of comparing his DNA with the DNA swabs that were collected during the victim's SANE exam on February 13, 2019.

2. I am a Special Agent (SA) with the United States Department of Justice, Federal Bureau of Investigation (FBI), and have been employed as such since July 2017. I am currently assigned to the Albuquerque Division of the FBI, Farmington Resident Agency, and have primary investigative responsibility in crimes that occur in Indian Country, including violent crimes such as homicide, crimes against children, sexual abuse of a child, aggravated assault, and sexual assault. I am also responsible for investigating all other federal crimes for which the FBI investigates in the San Juan County area of New Mexico. The information set forth in this affidavit has been derived from an investigation conducted by myself, Shiprock Criminal Investigator (CI)

Jefferson Joe, of the Navajo Nation Department of Criminal Investigations, and/or communicated to me by other law enforcement officers regarding alleged violations of United States Code, 18 U.S.C. §§ 2243(a) and 2246(2)(A), Sexual Abuse of a Minor, as well as 18 U.S.C. §§ 1153(a) Crimes Committed in Indian Country.

3. On January 16, 2019, The Navajo Nation Police Department (NNPD) arrested Daniel Washburn, YOB 1994, at his mother's residence in Newcomb, New Mexico. Washburn was arrested for being an aggressor in a criminal nuisance call out. During that call out a NNPD officer identified Jane Doe, YOB 2004, who had been staying with Washburn. During the contact with NNPD Jane Doe referred to Washburn as her "baby" and her "boyfriend." In addition, Washburn's mother and brother identified Jane Doe as "the girlfriend" and "his [Washburn's] little girlfriend." Both Washburn's mother and brother did not know Jane Doe's real age. Washburn identified Jane Doe as his "cousin."

4. Due to Jane Doe being a minor, NNPD transported her to Child Protective Services (CPS). Jane Doe was subsequently taken to Sexual Assault Services of Northwest New Mexico where she received an evaluation from a Sexual Assault Nurse Examiner (SANE). During the evaluation, Jane Doe disclosed that she and Daniel Washburn had unprotected sexual intercourse on multiple occasions. Jane Doe stated that the most recent incident of sexual intercourse occurred on January 15, 2019. Jane Doe described the sexual acts to include fellatio and digital penetration of her vagina. The nurse examiner scheduled a follow up examination for Jane Doe on February 13, 2019 per CPS policy. Jane Doe was then picked up by a CPS social worker and taken to Childhaven in Farmington, New Mexico for a forensic interview.

5. On the afternoon of January 16, 2019, the Farmington Resident Agency of the FBI was notified by the Navajo Nation Department of Criminal Investigations (NNDICI) of the alleged

sexual abuse of Jane Doe, Navajo female, year of birth 2004, by Daniel Washburn, Navajo male, year of birth 1994.

6. Later that same afternoon, the FBI observed the forensic interview of Jane Doe at Childhaven. During the interview, Jane Doe described Washburn as her boyfriend and disclosed that they had engaged in sexual acts. Jane Doe stated that she first met Washburn via Facebook on or about October 17, 2018. In their conversations, Washburn claimed to be 18 years of age and said that he wanted to be with Jane Doe. The two talked on Facebook for the next few weeks, after which they subsequently met in person on or about November 12<sup>th</sup> or 13<sup>th</sup>, 2018. Jane Doe stated she and Washburn “did the sexual thing” and “went all the way” on approximately six separate occasions. According to Jane Doe the first time they had sexual intercourse was on or about November 12, 2018, across from Nizhoni Park in Shiprock, New Mexico. The additional sexual encounters occurred at the home of Washburn’s grandmother in Newcomb, New Mexico, between approximately November 12, 2018, and January 15, 2019. Both Shiprock, New Mexico and Newcomb, New Mexico are located within the exterior boundaries of the Navajo Nation Indian Reservation, a federally recognized tribe.

7. At the time of the sexual acts, Jane Doe had attained the age of 12 years but had not attained the age of 16 years. In addition, Jane Doe was at least four years younger than Washburn, who was 24 years old.

8. On February 13, 2019, Jane Doe was again evaluated by a SANE. Jane Doe stated that she had had sexual intercourse with Washburn, penis to vagina, again in Sheep Springs, New Mexico on February 12, 2019. The SANE nurse’s notes of the conversation show that Jane Doe disclosed that Washburn ejaculated inside of her, that she scratched Washburn “a little” on his sides, stomach and back, and Washburn gave Jane Doe “hickeys last night” on the right and left

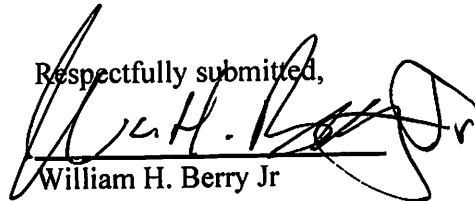
sides of her neck. As a result of this acute disclosure Jane Doe was submitted to a full SANE examination at the Northern Navajo Medical Center (NNMC). The SANE nurse obtained vaginal swabs, cervical swabs, anal swabs, swabs of the fingernails, and swabs of the right side of the neck where Daniel Washburn left a skin blemish from sucking the night prior.

9. On January 28, 2019, FBI Special Agent Jeffrey T. Wright conducted an interview of Washburn. Washburn stated that he was not romantic with Jane Doe and did not give details about the relationship with Jane Doe.

10. Your Affiant swears this information to be true and correct to the best of his knowledge and belief.

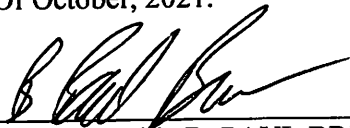
11. Assistant United States Attorney Thomas Aliberti, United States Attorney's Office, District of New Mexico, reviewed this affidavit for legal sufficiency.

Respectfully submitted,



William H. Berry Jr  
Special Agent  
Federal Bureau of Investigation  
Farmington, New Mexico

Subscribed and sworn to  
Before me this 5<sup>th</sup> day  
Of October, 2021.



The Honorable B. PAUL BRIONES  
United States Magistrate Judge

**ATTACHMENT A**

The person of DANIEL WASHBURN, Year of Birth 1994.

**ATTACHMENT B**

1. DNA evidence in the form of saliva with a buccal swab and blood with a finger prick, along with a known head hair sample consisting of twenty-five (25) full-length hairs from all areas of the scalp from DANIEL WASHBURN.
2. Photographs of DANIEL WASHBURN.